

In The Matter Of:
United States vs.
PFC Bradley E. Manning

Vol. 34
August 13, 2013
UNOFFICIAL DRAFT - 8/13/13 Afternoon Session

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VOLUME XXXIV
IN THE UNITED STATES ARMY

UNITED STATES
VS.
MANNING, Bradley E., Pfc. COURT-MARTIAL
U.S. Army, xxx-xx-9504
Headquarters and Headquarters Company,
U.S. Army Garrison,
Joint Base Myer-Henderson Hall,
Fort Myer, VA 22211
_____ /

The Hearing in the above-entitled matter was
held on Tuesday, August 13, 2013, commencing at 3:00
p.m., at Fort Meade, Maryland, before the Honorable
Colonel Denise Lind, Judge.

DISCLAIMER

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1 **APPEARANCES:**

2
3 **ON BEHALF OF GOVERNMENT:**

4 **MAJOR ASHDEN FEIN**

5 **CAPTAIN JOSEPH MORROW**

6 **CAPTAIN ANGEL OVERGAARD**

7
8 **ON BEHALF OF ACCUSED:**

9 **DAVID COOMBS**

10 **CAPTAIN JOSHUA TOOMAN**

11 **MAJOR THOMAS HURLEY**

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August 13, 2013

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1 PROCEEDINGS,

2 THE COURT: Please be seated. The Court is
3 called to order.

4 Is there anything we need to address
5 before we continue with the next witness?

6 MR. COOMBS: No, Your Honor.

7 CAPTAIN OVERGAARD: No, ma'am.

8 THE COURT: Please call your next witness.

9 MR. COOMBS: The defense calls Sergeant
10 Daniel Padgett.

11 Whereupon,

12 SERGEANT DANIEL PADGETT,
13 called as a witness, having been first duly sworn to
14 tell the truth, the whole truth and nothing but the
15 truth, was examined and testified as follows:

16 DIRECT EXAMINATION BY MR. COOMBS:

17 BY MR. COOMBS:

18 Q Sergeant Padgett, I want to ask you a few
19 questions about your deployment to Iraq in 2009.

20 A Okay.

21 Q What month did you deploy to Iraq?

1 A October of 2009.

2 Q What unit did you deploy to?

3 A Bravo Company 2nd B STB 2nd Brigade 10th
4 Mountain Division.

5 Q When you -- when were you appointed as the
6 NCOIC of the night shift for the S2 section?

7 A Shortly after we got into Iraq.
8 Approximately November.

9 Q Still of 2009?

10 A Yes, sir.

11 Q And what did you do as the NCOIC of the
12 night shift?

13 A Just worked with the other soldiers on the
14 night shift insuring their tasks were being complete.
15 anything significant came make sure it's get reported
16 to the proper channels.

17 Q Prior to assuming the duties of the NCOIC
18 of the night shift, did you receive any initial
19 counseling as on the expectations of your position?

20 A No, sir.

21 Q Do you know why not?

1 A No, I do not.

2 Q And at that time I know you're an E45 now,
3 were you an E4 at that time?

4 A Yes, sir.

5 Q At that point, had you been to any
6 leadership schools in order to assume the position of
7 the NCOIC?

8 A Not at the time, sir.

9 Q How many analysts did you supervisor?

10 A Two.

11 Q Who were they?

12 A Specialist Manning and at the time
13 Specialist DeFrank.

14 Q And were you as the NCOIC responsible for
15 counseling Specialist Manning and Specialist DeFrank?

16 A I wasn't told that that was part of my job
17 duties, but when the need arose I would ask for
18 permission to do so from their chain of command.

19 Q Who did you ask permission from in order to
20 counsel Specialist Manning or Specialist DeFrank?

21 A At the time it was Sergeant Balonek Chief

1 Balonek.

2 Q And based upon your perception, why were
3 you in the position of having to ask to counsel these
4 two soldiers?

5 A Well coming from the MI company I knew that
6 the soldiers in the brigade chain had there own
7 specific chain of command and I wanted to go to them
8 first before I took any kind of administrative actions
9 since I wasn't actually in the brigade chain of
10 command.

11 Q Did you feel that you should be the person
12 counseling the soldiers or did you feel somebody else
13 should?

14 A I knew they should be made aware of it and
15 I wanted to ask them and make sure it was okay, since
16 the discrepancies that I had happened on my shift,
17 since I was the senior person in charge.

18 Q If weren't the individual to counsel
19 Specialist Manning or Specialist DeFrank, who would
20 have been?

21 A Specialist DeFrank I don't know, but at the

1 time I believe it was Sergeant Balonek who would be the
2 squad leader.

3 Q Based on our your perception, how would you
4 describe the leadership provided within the S2 section?

5 A Say again, sir.

6 Q Based upon your perception, I know you were
7 kind of from a different -- your from BSB, correct?

8 A Yes.

9 Q So based upon your perception when you came
10 too work for the S2, how would you describe the
11 leadership within that section?

12 A As my first big encounter with their
13 leadership and their chain of command my exposure to
14 them before that had been very limited. I knew who
15 everybody was and what their roles were, but it seemed
16 like a majority of their chain of command were on the
17 day shift. It was a little heavier than the night
18 shift where it was the three of us.

19 Q When you say the that in the night shift it
20 was just the three of us, who were you talking about?

21 A Myself and Specialist Manning and

1 Specialist DeFrank.

2 Q Now, I want to ask you about your
3 supervision of PFC Manning, then Specialist Manning.
4 Okay?

5 A Yes.

6 Q Were you ever considered his direct
7 supervisor for administrative actions?

8 A Not that I'm aware of.

9 Q And do you know why not?

10 A No, I do not.

11 Q Did you ever request authorization to
12 actually handle a counseling section of PFC Manning?

13 A Yes, I did.

14 Q When did you do that?

15 A In December of 2009, sir.

16 Q Who did you get that authority from?

17 A Sergeant Balonek, sir.

18 Q Why did you go to Staff Sergeant Balonek?

19 A Because he was -- at the time I believe he
20 was Manning's supervisor or squad leader.

21 Q Was Staff Sergeant Balonek your supervisor?

1 A No.

2 Q Who was your supervisor?

3 A My supervisor within the S2 would have been
4 whichever officer was in charge who I would directly
5 report to or if for administrative purposes I would
6 default to my company chain of command.

7 Q So you didn't have an NCO within your
8 supervisor chain within the S2 session?

9 A I did at the time. It was Master Sergeant
10 Atkins.

11 Q Who ultimately gave permission to counsel
12 PFC Manning?

13 A Sergeant Balonek.

14 Q Now, I want to ask you about one of those
15 counseling sessions. Okay?

16 A Yes, sir.

17 Q You say you counseled him in December of
18 2009?

19 A Yes, sir.

20 Q And why were you counseling him at that
21 point?

1 A He had been late to shift change and I
2 wanted to ensure that he knew the importance of being
3 to work on time and show that it didn't happen again.

4 Q Did you counsel him on multiple occasions
5 or two different occasions in December?

6 A Yes, sir.

7 Q Let's talk about the second occasion. How
8 do you remember roughly the time frame when you did
9 your first counseling and you did your second
10 counseling?

11 A The first one was I believe it was the
12 18th, December 18th, right around there, and the second
13 one was about a day afterwards the following shift.

14 Q And during the second counseling session
15 did anything happen during that session that was
16 unusual?

17 A Yes, sir.

18 Q What happened?

19 A During the counseling session Specialist
20 Manning's demeanor changed during that counseling
21 session. He stood up, flipped the table over, knocked

1 everything off of it and became irate.

2 Q What were you saying what was happening
3 immediately before then Specialist Manning flipped the
4 table?

5 A We were just going through the counseling
6 statement line-by-line and I was informing him of the
7 importance of why we have to be on time to work and
8 what's expected of us as far as when we have to be
9 there and what our duties are and what can happen if
10 you continue to be late.

11 Q And where were you sitting in relation to
12 the where Specialist Manning was sitting?

13 A We were sitting across from each other at a
14 large table in our conference room.

15 Q And after Specialist Manning flipped the
16 table, what happened?

17 A He was getting kind of irate, so I tried to
18 calm him down. Our placement in the room, there was a
19 weapons wrack in there. I didn't see him go for it or
20 even look at it, but I didn't know what was going on
21 and I didn't know what his intentions were.

1 So I wanted to take every chance I could to
2 defuse another incident happening. So I made sure that
3 he was no longer between me and the weapons wrack. So
4 I stood between him and the weapons wrack, and shortly
5 after that is when Chief Ehresman came in and basically
6 took control of Manning.

7 Q And when you say took control of Manning,
8 did he restrain PFC Manning?

9 A Yes, sir.

10 Q Did anyone else come in the room at that
11 point?

12 A I don't remember.

13 Q After Chief Ehresman restrained PFC
14 Manning, what happened?

15 A When we were able to get him to calm down,
16 we cleaned up the mess that was made in the conference
17 room and we finished the -- finished the counseling
18 session.

19 Q After this incident did you report to
20 Master Sergeant Atkins what happened?

21 A He had found out through just the chain of

1 events between myself and Chief Ehresman after
2 everything had happened.

3 Q Did Master Sergeant Atkins ever come to you
4 to find out from your perspective what happened?

5 A I believe he asked me what happened, but I
6 don't remember the details of what we talked about.

7 Q What about Major Clossan, did he ever come
8 to you to figure out what happened from your
9 perspective?

10 A I don't remember if I talked to him after
11 that moment.

12 Q What happened to PFC Manning after this
13 incident?

14 A I heard that he had referral for behavioral
15 health, and as far as anything that happened
16 administratively, I wasn't made aware of any of that.

17 Q After what you saw between yourself and PFC
18 Manning, did you believe he should remain in the
19 T-SCIF?

20 A I don't know, sir. I mean, you know, when
21 he was still there he still did his job; but it's not

1 my call to determine who gets to stay in there and who
2 gets to be removed.

3 Q Did you ever counsel PFC Manning for
4 disrespect considering the fact that you were the NCOIC
5 at that point?

6 A No, I did not.

7 Q Did you know if PFC Manning ever received
8 any UCMJ action based upon the conduct?

9 A No, I do not.

10 Q Do you know if a report of survey was ever
11 done for damage of any property?

12 A I wasn't aware of anywhere.

13 MR. COOMBS: Thank you. No further
14 questions.

15 THE COURT: Government?

16 CROSS EXAMINATION BY CAPTAIN OVERGAARD:

17 BY CAPTAIN OVERGAARD:

18 Q Sergeant Padgett, you said that you were
19 put in charge of the night shift?

20 A Yes, ma'am.

21 Q That was because you were the senior

1 specialist in the group?

2 A Yes, ma'am.

3 Q And you actually had been a Marine for four
4 years before you came over to the Army?

5 A Yes, ma'am.

6 Q And you came in in 2008 as a specialist?

7 A Yes, ma'am.

8 Q And did Master Sergeant Atkins tell you
9 that your responsibilities were to make sure the night
10 shift got their work done?

11 A Yes, ma'am.

12 Q Did he also say to make sure anything else
13 that needs to get done gets done?

14 A Yes, ma'am.

15 Q What did that mean? What did you do to
16 oversee the night shift?

17 A We would periodically see taskings from the
18 day shift, our day shift counterparts and that I think
19 this would be worked on or gathered on any further we
20 would work on that and then if anything significant
21 came up during our shift make sure it was reported to

1 the proper personnel.

2 Q And you had a couple of punctuality
3 problems with the accused?

4 A Yes, ma'am.

5 Q So you had to counsel him?

6 A Yes, ma'am.

7 Q And you received the permission to do so?

8 A I did.

9 Q You said when you were finished or you said
10 that after PFC Manning flipped the table you were
11 actually able to go back and finish your counseling?

12 A Yes, we did. It was quite a while
13 afterwards, but we eventually did finish it.

14 Q Did his chain of command then deal with it
15 from there on out after you finished the counseling?

16 A As far as I know.

17 Q Do you know if he went to mental health?

18 A I believe he did, yes, ma'am.

19 Q Did you ever walk him over to mental
20 health?

21 A A couple of times, but shortly after that I

1 flu back to Baghdad for another mission that I was
2 working on.

3 Q And you knew the bolt was taken from his
4 weapon after that?

5 A I had heard.

6 Q Before you said that you didn't have
7 leadership training before you deployed but did you
8 have training on how to do your job as a analyst?

9 A Yes.

10 Q And you went to AIT and JRTC and the D6A
11 training?

12 A Yes, ma'am.

13 Q And then in theater you had some additional
14 training?

15 A Yes, ma'am.

16 Q And you knew also when you were in theater
17 you could go to anyone in the S2 chain of command:

18 A Yes, ma'am.

19 Q With questions?

20 A Yes.

21 Q And in (INAUDIBLE) Master Sergeant Atkins?

1 A Yes.

2 Q And in your opinion was the S2 shop run
3 well?

4 A I didn't have anything to compare it to.
5 It was my first deployment, but I think everyone in
6 there was doing the best that they could.

7 Q With what they had?

8 A Yes, ma'am.

9 Q And you achieved your mission?

10 A Yes, ma'am.

11 Q Who would you was Captain Lim as the S2?
12 Did he run the shop well?

13 A From what I could see he did. That was my
14 first time working in the S2 shop. So I didn't have
15 anything to compare it to.

16 Q And everyone knew what their job was?

17 A Yes, ma'am.

18 Q And the positions were filled?

19 A As far as I know, ma'am, yes, sir.

20 Q There was a lot of change in the personnel
21 during the time you were there; is that correct?

1 A Yes, there was.

2 Q So that was somewhat confusing, but you
3 knew who your chain of command was?

4 A Yes. Initially there was a lot of changes
5 in personnel, but I always knew who I could go to if
6 something were to come up.

7 Q If you had a issue would you feel
8 comfortable going to mental health?

9 A Yes, I would.

10 Q And that was as a junior enlisted soldier
11 in 2009 and 2010?

12 A Yes, ma'am.

13 CAPTAIN OVERGAARD: Thank you. No further
14 questions.

15 THE COURT: Redirect?

16 MR. COOMBS: No, Your Honor.

17 THE COURT: Sergeant, I just have one
18 question. When the table was flipped, were the
19 computers on the table?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Did do you know if they were

1 functional after you put them back together?

2 THE WITNESS: I don't know, ma'am. I
3 didn't attempt to use they have afterwards.

4 THE COURT: Any follow up based on that?

5 MR. COOMBS: No, Your Honor.

6 CAPTAIN OVERGAARD: No, ma'am.

7 THE COURT: Sergeant Padgett, your excused.
8 You are temporarily excused. Please don't discuss your
9 testimony or knowledge of the case other than with
10 counsel or the accused while the trial is going on.

11 MR. COOMBS: The defense calls Sergeant
12 Lorena DeFrank.

13 Whereupon,

14 SERGEANT LORENA DEFRANK,
15 called as a witness, having been first duly sworn to
16 tell the truth, the whole truth and nothing but the
17 truth, was examined and testified as follows:

18 DIRECT EXAMINATION BY MR. COOMBS:

19 BY MR. COOMBS:

20 Q Sergeant DeFrank, your name has been used
21 often as Specialist Cooley. Were you formally, last

1 name Cooley?

2 A Yes, sir.

3 Q I want to start off by asking you a few
4 questionings about your interaction with PFC Manning.
5 Okay?

6 A Yes, sir.

7 Q When did you first meet PFC Manning?

8 A August of 2008.

9 Q And when, at that point, why were you
10 meeting him in August of 2008?

11 A That's when he came to the unit, sir.

12 Q Were you at the unit prior to him?

13 A Yes, sir.

14 Q And prior to the deployment have you ever
15 given PFC Manning any rides to and from work?

16 A Yes, sir.

17 Q Why was that?

18 A He needed a ride either to work or down to
19 Syracuse.

20 Q That's my second question. Did you ever
21 give him a ride to Syracuse or to the bus station?

1 A Yes, sir.

2 Q Why would you do that?

3 A Out of kind necessary, helping another
4 soldier out, and he didn't have a car and I did.

5 Q Was there a time where you and PFC Manning
6 met up in Washington, D.C.?

7 A In the area sir yes.

8 Q And do you remember when that was?

9 A It was about April of 2009 I would think.

10 Q While in D.C. did you and PFC Manning hang
11 out together?

12 A He showed me around the area where he grew
13 up.

14 Q Did he take you to the mall where he
15 worked?

16 A Yes.

17 Q Did he also take to you Star Bucks, showed
18 you where you worked?

19 A Yes, sir.

20 Q And you indicated he showed you where he
21 was living or had lived?

1 A Yes, sir. It was, I believe, his aunt's
2 house.

3 Q And during the time that you spent with him
4 did he seem to want to talk to you?

5 A A little bit, yes, sir.

6 Q And during those times did you discuss
7 politics?

8 A To an extent. I'm not very much into
9 politics myself so. I wasn't very talkative on the
10 subject myself, but yes, yes, he did discussion it a
11 little bit.

12 Q In your perspective, was PFC Manning a
13 politically active person?

14 A Yes.

15 Q Why would you say that?

16 A He just talked about it a lot and he seemed
17 very interested in the subject.

18 Q Now, I want to ask you a few questions
19 about other individuals in the unit and PFC Manning.
20 Okay?

21 A Sure.

1 Q Did PFC Manning have any friends in the
2 unit, from your perspective?

3 A There was a few, sir, yes.

4 Q And who were they?

5 A There was another junior enlisted soldier
6 that he would talk to from time to time. I don't know
7 exactly who he spoke to most or anything, but I know
8 Schwab and Walsh, and there's a few others, but I can't
9 remember exact names.

10 Q From your perspective, how was PFC Manning
11 treated by others in the unit?

12 A Just as any other soldier. We all tried to
13 make each other feel like part of a family in the unit
14 within the shop.

15 Q Was he ever picked on by other people?

16 A Not any more than anybody else that I saw.

17 Q Do you ever recall saying he was treated
18 like the runt of the shop?

19 A Yes, sir.

20 Q Why would you say that?

21 A I mean, as far as statute he was the

1 smallest in the shop and we all joked around a lot. So
2 like I said not more than anybody else.

3 Q Did anyone ever pick on him because he was
4 gay?

5 A Not to my recollection.

6 Q Were you aware that he was gay?

7 A Not until several months after he'd been to
8 the unit.

9 Q How did you find out?

10 A He told me.

11 Q Did your husband ever ask you to stop
12 speaking with PFC Manning?

13 A Yes, sir.

14 Q When was that?

15 A It was probably after the trip to D.C.

16 Q Do you know why your husband asked you to
17 stop speaking to PFC Manning?

18 A He didn't feel comfortable with him.

19 Q Was there a reason?

20 A Honestly, I don't remember.

21 Q Is your husband also military?

1 A He's National Guard.

2 Q Do you recall ever telling me that your
3 husband didn't agree with PFC Manning's lifestyle and
4 orientation?

5 A Not that I remember.

6 Q You don't recall telling me that?

7 A I don't remember if that's what he told me.
8 I haven't speak to him in a while.

9 Q Do you recall telling me that?

10 A Roger, sir.

11 Q And do you recall telling me that your
12 husband didn't want you to be friends with PFC Manning?

13 A Yes.

14 Q And after that point did your friendship
15 with PFC Manning start to deteriorate?

16 A I wouldn't say deteriorate. It just became
17 more professional. I talked to him at work and
18 possibly gave him rides back to the barracks after
19 work, but didn't really go out of my way to be social.

20 Q I want to ask you a few questions about
21 working with PFC Manning during the deployment. Okay?

1 A Yes.

2 Q At the beginning of the deployment did you
3 work on the night shift with PFC Manning?

4 A Yes.

5 Q And based upon working on the same shift
6 were you able to view his duty performance?

7 A Yes, sir.

8 Q And from your perspective was PFC Manning a
9 proficient analyst?

10 A Yes, sir.

11 Q Why would you say that?

12 A He was good at the analysis and
13 accomplished the tasks that were assigned.

14 Q Did you ever describe him as being like a
15 robot?

16 A To an extent. He's very much into the
17 computers and working with the data that we had.

18 Q Did you ever use that phrase?

19 A I believe so.

20 Q And other than I guess the answer you just
21 gave, was there a reason why you describe him as kind

1 of like a robot?

2 A Just because he was like I said very
3 knowledgeable with the computers, knowledgeable with
4 the systems that we used and it was very able to
5 methodically turn out consistent products.

6 Q Now, did you have an enlisted supervisor
7 during your shift?

8 A Yes, sir.

9 Q And did that supervisor change during the
10 deployment?

11 A Changed several times, but we also changed
12 shifts during the deployment.

13 Q Who was your first enlisted supervisor?

14 A I believe it was Specialist Padgett at the
15 time.

16 Q What about your second?

17 A When I switched to day shift it was
18 Sergeant Mitchell.

19 Q On the night shift before Padgett did Chief
20 Specialist Showman ever supervisor you?

21 A For a time.

1 Q While on the night shift, did you ever have
2 an actual noncommissioned officer supervisor you?

3 A No, sir.

4 Q Do you know why not?

5 A Didn't have the manning to support it. We
6 were undermanned on the night shift and the deployment
7 in general, so we did what with what we had.

8 Q So am I correct in saying that on the night
9 shift you only had E4 and below?

10 A We also had an officer overseeing us, but,
11 yes.

12 Q Who was the officer?

13 A Captain Kay.

14 Q Now, with regards to your NCOIC, that was
15 Master Sergeant Atkins?

16 A Overall, yes.

17 Q Did you ever state that you believed that
18 Master Sergeant Atkins minimized a lot of things with
19 PFC Manning?

20 A He dealt with a lot of things in the shop.
21 I believe that might have been the exact terminology I

1 used, but we dealt with things in the shop before going
2 up to higher levels to try to take care of things at
3 lowest level.

4 Q Do you recall saying that you thought PFC
5 Manning should have gotten help before the deployment?

6 A That was based on information I found out
7 after deployment, but if he needed it, he could have
8 gotten it.

9 Q Are you familiar with AR380-67?

10 A Yes.

11 Q How are you familiar with that regulation?

12 A My job with personnel security.

13 Q Is that where you're working in now?

14 A No, the S2 shop.

15 Q How long have worked in personnel security?

16 A On and off for the last two years.

17 Q Does your current duties include processing
18 DROGs?

19 A Yes.

20 Q I'd like to talk to you about that for a
21 moment. Okay? Do soldiers and leaders have a

1 responsibility to report derogatory information for
2 individuals who have security clearances?

3 A Yes.

4 Q Why is that?

5 A Because it's their responsibility to
6 maintain control of their classified information that
7 their soldiers might interact with.

8 Q From your perspective as a personnel
9 security representative, is whether somebody is
10 suitable for having a security clearance an ongoing
11 evaluation?

12 A Yes.

13 Q And can you explain why you believe that?

14 A Because circumstances could change at any
15 time and if something comes up that might disqualify
16 that person from having a security clearance they
17 should be processed accordingly.

18 Q What type of conduct by a soldier would
19 raise a security concern regarding whether or not they
20 should maintain their security clearance, just in
21 general?

1 A In general, I would assume (INAUDIBLE),
2 positive urine analysis, financial issues, domestic
3 disturbances involving alcohol, things of those
4 natures.

5 Q Have you ever see a DROG filed for a
6 traffic offense.

7 A If it was involving alcohol, yes.

8 Q If a soldier exhibits behavior that causes
9 others to question his or her judgment, could that
10 result in a DROG?

11 A Yes.

12 Q And why?

13 A Because if that person is deemed incapable
14 of, you know, protecting classified information then
15 they shouldn't allowed access to it.

16 Q And from your perspective as a personnel
17 security representative, did you ever see a DROG ever
18 filed for something for an action of violence?

19 A Yes.

20 Q And I know you gave the one example of
21 spousal abuse. Are there any other types of examples?

1 A Yes. If there's a fire fight in the town
2 and they get arrested a DROG would be initiate forward
3 that soldier.

4 Q And based upon your training how long does
5 it take to process file and process a DROG?

6 A Thirty days from the date of the incident
7 the initial DROG is submitted and 90 days afterwards
8 they see their follow up or final, depending on whether
9 the case is closed.

10 Q If the chain of command fills out a DROG
11 and files it immediately, how long does it take to
12 suspend clearance if the command makes that decision,
13 do you know?

14 A It depends on how long it takes the
15 paperwork to get up (INAUDIBLE). The agency we go
16 through, CID, at Fort Drum. It just depends on how
17 that installation processes that paperwork. It would
18 be a couple of weeks to two months.

19 Q With regards to the idea of filing a DROG,
20 if a DROG is filed, does that mean a soldier is going
21 to lose their security clearance?

1 A Not necessarily.

2 Q Can you explain why not?

3 A If the commander provides a recommendation
4 on whether or not the soldier should have their
5 clearance maintained or revoked depending on how they
6 perceive that soldier. Usually they go by the whole
7 soldier concept and they'll make a judgment. If it's
8 just a soldier is in the wrong place at the wrong time
9 and messes up and overall he's a good soldier then more
10 than likely they'll provide corrective training and
11 counseling and help him rehabilitate himself; but if
12 it's a soldier that's shown patterns of misconduct then
13 they'll more than likely move to revoked or suspend his
14 clearance.

15 Q Now, I want to ask you -- actually before I
16 move on. With regards to the DROGs, what is the idea
17 of having those filed with the clearance facility?
18 What's the purpose of having DROGs filed there?

19 A Not every soldier has a clearance. So if
20 the soldier in question doesn't have a clearance at the
21 time, if they go in the future to apply for a

1 clearance, then that file would be in their record and
2 that will weight in on the office of personnel
3 management their decision to grant that person a
4 clearance.

5 Q So am I correct in saying that it's
6 basically like a paperwork trail?

7 A Yes, sir.

8 Q Now, I want to ask you some more questions
9 about PFC Manning from your perspective. Okay?

10 A Yes, sir.

11 Q And to focus you in I want to talk about
12 the time period where PFC Manning returned from
13 mid-tour leave. Okay?

14 A Yes, sir.

15 Q Did you notice any the increase in PFC
16 Manning's stress level when he returned?

17 A Yes, sir.

18 Q What did you notice?

19 A He seemed more agitated.

20 Q What did you base that upon?

21 A His behavior, sir.

1 Q Did you ever try to talk to him about what
2 was going on?

3 A At the time I had personal issues of my
4 oven going on, as I was preoccupied with those and I
5 didn't really have a chance to.

6 Q During this time did PFC Manning ever ask
7 you to look at an Apache video?

8 A He may have.

9 Q Do you recall telling me that one time
10 where he pulled you aside to look at the Apache video?

11 A I believe so.

12 Q And during that time do you recall how PFC
13 Manning seemed to react to seeing the video?

14 A I don't recall.

15 Q You don't recall? Do you recall telling me
16 that he seemed to be troubled by what he was looking
17 at?

18 A Yes, sir.

19 Q You recall that?

20 A Yes.

21 Q Did you ever talk to him about that video?

1 A I don't think so.

2 Q During the April 2010 time frame, did you
3 ever have an occasion to hear PFC Manning's
4 conversation over Skype?

5 A Yes. He was next to me.

6 THE COURT: I'm sorry?

7 THE WITNESS: Yes, he was in the room next
8 to me, ma'am.

9 BY MR. COOMBS:

10 Q And how do you know he was having a
11 conversation?

12 A I could hear him talking and it seemed to
13 be a two-way conversation. I don't remember if I heard
14 anything coming from the other end, but it did seem to
15 be a two-way conversation.

16 Q And based upon what you could hear, did you
17 hear PFC Manning say anything about feeling like he had
18 a burden?

19 A I remember saying him something like that,
20 yes.

21 Q And what did he say, do you recall?

1 A I don't remember exactly what he said.

2 Q What would you think would help refresh
3 your memory?

4 A Possibly some sworn statements.

5 Q I'm showing you what's been marked as
6 Defense Exhibit UUU for identification. If you would
7 just take a look at that and go ahead and thumb through
8 each of the pages. You don't need to read it, just
9 thumb through each of the pages and then look up at me.

10 A (Witness reviewing document.)

11 Q Do you recognize that?

12 A Yes, sir.

13 Q What is that?

14 A It's a sworn statement I gave I believe it
15 was right after PFC Manning was arrested.

16 Q What I'd like you to do is to turn to page
17 2 and just read silently to yourself if and I'll go
18 ahead and point exactly where. Just go ahead and read
19 from here over to page 3 and then when you're done with
20 that paragraph look up at me.

21 A (Witness reviewing document.)

1 Q Retrieving Defense Exhibit UUU for
2 identification from the witness.

3 Does that refresh your memory?

4 A Yes, sir.

5 Q So did you hear him say anything about
6 feeling like he had a burden that he felt that he had?

7 A Yes, sir.

8 Q What did he say?

9 A He said he was concerned about public
10 opinion.

11 Q Did he indicate what he was concerned about
12 as far as public opinion?

13 A I don't recall.

14 Q Do you hear him express concern about
15 public opinion in the U.S. about -- public opinion in
16 the United States?

17 A I believe so, sir.

18 Q And did he indicate that it was about
19 something that was going on at that time?

20 A Yes, sir.

21 Q And did you ever talk to him about that

1 conversation?

2 A I don't recall, sir. I don't think I did.

3 Q And after that conversation, did you notice
4 any change in PFC Manning's demeanor?

5 A As I said, he became more agitated, more
6 nervous.

7 Q And even after seeing that he was more
8 nervous or agitated, did you ever speak to him about
9 what was bothering him?

10 A Not that I recall.

11 MR. COOMBS: No further questions.

12 THE COURT: Cross examination?

13 CAPTAIN OVERGAARD: Yes, ma'am.

14 CROSS EXAMINATION BY CAPTAIN OVERGAARD:

15 BY CAPTAIN OVERGAARD:

16 Q Sergeant DeFrank, I just want to talk a
17 little bit first about the DROGs again that you spoke
18 about.

19 A Yes, ma'am.

20 Q When you said before that you filed the
21 DROGs, does that mean that you just -- you filled out

1 the report for information and you gave it to the
2 commander?

3 A What I do with my unit is I'll prefill out
4 the DROG with the soldier's information about their
5 clearance and the investigation on them, their
6 background investigation. Then I'll send it to the
7 commander to get their recommendation and it will go up
8 to the battalion commander for signature and then it
9 goes up to the brigade for processing.

10 Q When you get any sort of misconduct that
11 you might see on the blotter or might get from the
12 First Sergeant or wherever else the information comes
13 from, you document that on the DROG which is also
14 called the report for unfavorable information for
15 security?

16 A Yes, ma'am.

17 Q And then that goes to the company commander
18 initially and then he can either recommend that access
19 is suspended, not suspended, or those are his only two
20 options?

21 A One is access not responded. One is

1 collateral access suspended. Another one is SCIS is
2 suspended which that block would be checked according
3 to what level clearance that soldier has and what the
4 commander wants to do with them.

5 Q And the commanders can also access not
6 suspended?

7 A Yes.

8 Q So if the commander recommends access not
9 suspended, what happens to the DROG at that point?

10 A It will still get filed.

11 Q They always get filed?

12 A Yes, ma'am.

13 Q So if a DROG is filed it doesn't mean
14 necessarily mean access is suspended?

15 A Right.

16 Q You said during your deployment you changed
17 shifts and you changed supervisors a few times?

18 A Yes, ma'am.

19 Q Did you always know who your first-line
20 supervisor was?

21 A Yes.

1 Q Before deployment did you have a clear
2 chain of command?

3 A As far as I remember, yes.

4 Q Did you know your mission while you were in
5 theater?

6 A Yes.

7 Q Was Captain Lim your S2?

8 A Yes, ma'am.

9 Q And was he a good leader?

10 A Yes, ma'am.

11 Q Why did you say that?

12 A He was there for the soldiers and he was
13 very clear asking for what he wanted from the soldiers
14 from the shop in general.

15 Q Was he a mentor?

16 A Yes.

17 Q And how about Master Sergeant Atkins, was
18 he a good leader?

19 A Yes, ma'am.

20 Q Why do you say that?

21 A He was also there for the soldiers and took

1 care of them as best as he could.

2 Q Was someone always available in the S2 shop
3 while you were deployed there to go to with questions
4 or issues?

5 A Yes.

6 Q And if you had any mental health concerns
7 during deployment, did you feel comfortable going to
8 mental health?

9 A Yes, ma'am.

10 Q And that was even as a junior enlisted
11 soldier?

12 A Yes, ma'am.

13 Q You said before that in your statement you
14 said if Manning -- if PFC Manning had issues he should
15 have been able to get help before deployment?

16 A Yes.

17 Q But you didn't know whether or not he had
18 any issues?

19 A I didn't find out about them until
20 afterwards.

21 Q Okay. But you were just saying if he did

1 have issues he should have been able to get help?

2 A Yes, ma'am.

3 CAPTAIN OVERGAARD: No further questions.

4 Thank you.

5 MR. COOMBS: No redirect, Your Honor.

6 THE COURT: Sergeant DeFrank, you're
7 temporary excused. Please don't discuss your testimony
8 or knowledge of the case other than with counsel or the
9 accused while the trial is going on.

10 MR. COOMBS: The defense calls Sergeant
11 Sheri Walsh.

12 Whereupon,

13 SERGEANT SHERI WALSH,
14 called as a witness, having been first duly sworn to
15 tell the truth, the whole truth and nothing but the
16 truth, was examined and testified as follows:

17 DIRECT EXAMINATION BY MR. COOMBS:

18 BY MR. COOMBS:

19 Q Sergeant Walsh, I want to start off by
20 talking about your interaction with PFC Manning. Okay?

21 A Okay.

1 Q When was the first time that you met him?

2 A It was in Kuwait, sir.

3 Q In what year?

4 A 2009, sir.

5 Q So you did not know him prior to the
6 deployment?

7 A That is correct, sir.

8 Q And how did you first meet him in Kuwait?

9 A He was standing out where we gather or the
10 company gears and it was Lieutenant Fields then, which
11 is now Captain Fields introduced me as one of her
12 soldiers.

13 Q Did you have an occasion to have a
14 conversation with PFC Manning after that?

15 A Numerous times, sir.

16 Q And can you explain in general when these
17 were?

18 A Just in general, sir. In Kuwait I would
19 see him, he would see me, how is it going. When we
20 deployed to Iraq, sir, it was -- I would see him
21 passing. He lived on the same row with our

1 (INAUDIBLE). I would see him passing. It was always
2 hi, how are you. It got -- because I saw him all the
3 time, sir, it got to be more I would see him by
4 himself.

5 So a bunch of us would go to eat, sir, and
6 if I saw him by himself we always asked him if he would
7 like to join us. Things of that nature. As time went
8 on it progressed into more conversations between him
9 and I.

10 Q We'll get to that.

11 A Yes, sir.

12 Q Did you ever see him hanging out with
13 others during the deployment?

14 A Negative, sir.

15 Q Where would you normally see him?

16 A We were casually walking to and from the
17 PX, sir. If I was over, we called it the (INAUDIBLE)
18 top of the SCIF was, I would see him over there.
19 Usually outside smoke pit, sir, on the same row because
20 we lived on the same row, just in passing, sir.

21 Q From your perspective, were others nice to

1 him?

2 A Some of us were; some of them either
3 ignored him or they weren't always very nice to him,
4 sir; but a lot of us were. We had nothing against him
5 at all, sir.

6 Q Did you have a battle buddy in the unit?

7 A Not one in particular, sir. I had numerous
8 ones, sir. There was not one that was just pinpoint
9 down to one, sir. So I was always with the battle
10 buddy, sir.

11 Q What's the general purpose of being with a
12 battle buddy?

13 A For safeguard, to make sure that we watch
14 out for each other, to make sure that we were safe,
15 never to be alone by ourselves, sir.

16 Q Did you ever see PFC Manning with his
17 battle buddy?

18 A Negative, sir.

19 Q Did you ever witness an incident of
20 somebody being mean to PFC Manning?

21 A I have, sir.

1 Q Can you explain?

2 A It was kind of late at night. I don't
3 remember the time. I know a bunch of us were probably
4 heading to midnight CHU. I don't remember exactly
5 where we were going, sir.

6 A group of people came to get me from my
7 CHU. We were walking down the CHU. Mine was the very
8 first door. His was about midway down, sir, and I
9 don't remember who they were; but there were two
10 individuals in front of a bunch of us and he had to
11 open the door, and like he was getting ready to leave,
12 sir, and I don't know which ones just pushed the door
13 with his fist into him. It made a loud thud. I went
14 over to see if he was okay.

15 You could tell that he was not injured like
16 needing medical attention, dazed and confused, hurt,
17 sir. My NCO lived across from Manning because she came
18 out because it was very loud. One of two of the male
19 battle buddies that were with us went to the chase down
20 the other two.

21 We asked him if he was okay. He really

1 didn't say much, but then he came around and said, yes,
2 I'm okay, which you could tell he was confused, dazed,
3 hurt.

4 I know the next day me and my NCO talked
5 about it and tried to encourage him to like turn the
6 people in, but he refused. He seemed to not want to
7 cause any trouble. That was the end of it.

8 Q Based upon your perception, would it have
9 been an accident?

10 A It was not an accident.

11 Q Pushed the door into PFC Manning's face?

12 A Negative, sir.

13 Q Why do you say that?

14 A Because they were walking. He opened up
15 the door. He had not even stepped out of the door. He
16 was coming out the door, but I remember it being the
17 fist. They took the fist and as the door opened they
18 took their fist very hard and slammed the door.

19 Q And you indicated there came a time in your
20 conversations with PFC Manning became more extensive?

21 A Yes, sir.

1 Q When was that?

2 A I don't recall exactly when, sir.

3 Q Do you recall both of you going on R and R
4 leave at the same time?

5 A We did, sir.

6 Q Why were you going on R and R leave at that
7 point?

8 A Where he was going I do not know, sir but
9 that was like the first round that was going. Someone
10 from the legal group wanted to go, sir, so I got told
11 them I was going at that time, sir. We just happened
12 to hit about the same time, sir.

13 Q Did you have an opportunity to speak with
14 PFC Manning on the way I guess back from R and R leave?

15 A We spoke on the way as we were coming in
16 country, sir, and as well as when we were coming back
17 into the theater, sir.

18 Q And on the flight back how did PFC Manning
19 seem?

20 A On the flight back, we were not on the same
21 flight. I know once we got in theater, sir -- I don't

1 know exactly the relationship. I met up. I think I
2 was probably at the PX getting food, sir, and I think
3 he came up and I asked him how his R and R went and he
4 stated it didn't go too good, that he got snowed in
5 where he was going. He got snowed in, but for the most
6 part he was glad to be home, but, you know, I don't
7 think it was bad. I mean, we didn't get into all of
8 the details.

9 I know where he went. He had told me where
10 he went, but we didn't get into all of the details. He
11 just told me he had gotten snowed it, and it was
12 February, there was a lot of snow.

13 Q At what point did PFC Manning ever get into
14 trouble with an Article 15?

15 A I don't recall exactly when, sir. It was
16 probably March/April, sir, that's when.

17 Q Would you be aware of the Article 15
18 because of your duty position at that point at that
19 time?

20 A I would, sir.

21 Q Where did you work?

1 A I worked in the brigade legal, sir.

2 Q An I believe at my time -- assuming what
3 Delta?

4 A 27 Delta.

5 Q And is that your MOS?

6 A It is, sir.

7 Q Did PFC Manning ever talk to you about his
8 Article 15?

9 A On the way initially wrote up the Article
10 15, sir, and gave it to my First Sergeant when he was
11 done. Whatever happened with punishment, of course, we
12 knew that he got a reduction in rank; but they moved
13 him from the SCIF and move him to my building where I
14 worked, and he worked a couple of doors down from me,
15 sir.

16 He never really talked about the article
17 125 to me much. I know people with me asked him about
18 it. I know a lot of people high fiving him because
19 they weren't too fond of Showman, which is the reason
20 he got the Article 15; but that specific occasion I
21 mean, we talked in general, but we really didn't talk

1 about that Article 15 in itself, sir.

2 Q Did there come a time where you had anymore
3 person conversations with PFC Manning about him?

4 A We did, sir.

5 Q And did he share with you the fact that he
6 was gay?

7 A He did, sir.

8 Q Did he also share with you some of his
9 relationship problems?

10 A He didn't really.

11 MAJOR VON ELTEN: Hearsay ma'am.

12 MR. COOMBS: I'm not asking for a specific
13 fact, just whether or not he shared relationship
14 problems with her. So I'm not asking to convey a
15 particular conversation.

16 THE COURT: I'll let it go for now.

17 Go ahead.

18 BY MR. COOMBS:

19 Q Did he share with you any relationship
20 problems that he was having?

21 A In fact, he used the name him and him and

1 Taylor were having problems --

2 THE COURT: That's as far --

3 BY MR. COOMBS:

4 Q What I wanted to get was just that he
5 shared relationship problems with you.

6 A Not specific problems, sir.

7 Q So I'm not really concerned a about what he
8 told, you just whether or not he shared relationship
9 problems with you?

10 A That he was having problems with his
11 relationship, yes, sir.

12 Q So he actually expressed relationship
13 problems to you?

14 A Yes.

15 MAJOR VON ELTEN: Object.

16 THE COURT: I think clarifying at that
17 point.

18 Overruled.

19 THE WITNESS: That he was having problems
20 with his relationship is what he said, sir.

21 BY MR. COOMBS:

1 Q Based upon your conversations with PFC
2 Manning, did you form an opinion of him as a person?

3 A I really don't judge people. I got along
4 with him very well. I don't think him and I ever had
5 cross words. I know when we went on R and R we were
6 like the junior enlisted and I was the only female and
7 we kind of looked out for each other, but I had never
8 known him to have any issues at all, sir.

9 MR. COOMBS: Thank you, Sergeant Walsh.

10 THE WITNESS: Thank you.

11 CROSS EXAMINATION BY MAJOR VON ELTEN:

12 BY MAJOR VON ELTEN:

13 Q Sergeant Walsh?

14 A Yes, sir.

15 Q What's your unit?

16 A HHC STC Fort Jackson South, Carolina, sir.

17 Q When you were deployed with PFC Manning,
18 did you reach out to him?

19 A I tried to, sir, yes, sir.

20 Q Did you walk with him?

21 A If he would let me, yes, sir.

1 Q Did you invite him to meals?

2 A I did, sir.

3 Q Did you greet him?

4 A I did, sir.

5 Q Did you offer him coffee?

6 A I did, sir.

7 Q Did you smoke with him?

8 A I did, sir.

9 MAJOR VON ELTEN: Nothing further.

10 MR. COOMBS: No redirect.

11 THE COURT: Sergeant Walsh, you are
12 temporarily excused. Please don't discuss your
13 testimony or knowledge of the case other than with
14 counsel or the accused while the trial is going on.

15 THE WITNESS: Yes, ma'am.

16 CAPTAIN OVERGAARD: Can xxxxxx we have a
17 15-minute recess before the next witness is called.

18 THE COURT: Any objection?

19 MR. COOMBS: No objection.

20 THE COURT: The Court is in recess until 20
21 minutes after 4:00.

1 (Hearing recessed at 4:05 p.m.)

2 (Hearing resumed at 4:20 p.m.)

3 THE COURT: Please be seated. The Court is
4 called to order. Major Fein, please account for the
5 parties before we proceed.

6 MAJOR FEIN: All parties in the court
7 before the last recess are again present following
8 the addition of myself.

9 THE COURT: The government AND the Court
10 have a very brief RCM802 conference with counsel.
11 The government advised me they want to put two
12 things on the record.

13 MAJOR FEIN: Yes, ma'am. The government
14 completed its classification review of the transcripts
15 for Mr. Lewis' closing testimony. The classification
16 reviewed redact the declassified information from the
17 public access for the 1 July and 2 July sessions
18 although it's two groupings of this entire testimony
19 will be available. Three copies for the general
20 public, three copies for the media, and it's already
21 been pushed up the Department of the Army's website,

1 FOIA website for the general public to have access.
2 That's the first issue.

3 The second, Your Honor, is that the
4 defense and government have met to talk about the
5 three damage assessments that the defense team 505H
6 noticed, MRA505H noticed for to use during the
7 sentencing case. That's for the Department of State
8 damage assessment.

9 The National Counterintelligence
10 Executive damage assessment and the DIA or IRTF
11 damage assessment. The defense has now given notice
12 that they do not intend to use those three damage
13 assessment, and two of them the government did
14 prepare summaries for as previously arranged or
15 agreed upon by both parties for the NCIS and the
16 IRTF.

17 Those were completed, but the defense
18 does not intend do use either of those three
19 documents.

20 THE COURT: Mr. Coombs, is that correct?

21 MR. COOMBS: That is correct, Your Honor.

1 THE COURT: Because you asked me to take
2 judicial notice of them. So for right now the defense
3 doesn't want me to consider them at all; is that right?

4 MR. COOMBS: That is correct, Your Honor.

5 THE COURT: The defense calls Ms. Lillian
6 Smith.

7 Whereupon,

8 LILLIAN SMITH,
9 called as a witness, having been first duly sworn to
10 tell the truth, the whole truth and nothing but the
11 truth, was examined and testified as follows:

12 DIRECT EXAMINATION BY MR. COOMBS:

13 BY MR. COOMBS:

14 Q Ms. Smith, you are an information assurance
15 specialist with the U.S. Army information technology
16 agency?

17 A That's correct.

18 Q And you were signed as a information
19 assurance subject matter expert for the defense in this
20 case?

21 A Yes, I was.

1 Q When were you assigned to act as the
2 defense subject matter expert in information assurance?

3 A I was actually appointed in January of
4 2011.

5 Q And were you specifically requested by the
6 defense?

7 A No. What actually happened, you asked the
8 government to identify an information assurance
9 specialist or expert to be a part of the team.

10 Q Now, as part of the defense team, did I
11 request you to look at certain documents?

12 A Yes, you did.

13 Q And did you review the initial CID
14 investigation in this case?

15 A Yes, I did.

16 Q Did you view the secretary of the Army's
17 15-6 investigation?

18 A Yes, I did.

19 Q Did you also sit through the entire Article
20 32 investigation?

21 A Yes, I did.

1 Q Ms. Smith, are you prepared today to tell
2 us about your review of the initial CID investigation,
3 the Secretary Army's 15-6 investigation, as well the
4 information that you learned from the Article 32
5 investigation?

6 A Yes, I am.

7 Q Let's begin by getting to know you a little
8 bit better, some of your background.

9 You are the chief of your division within
10 the Enterprise Management directorate for the U.S. Army
11 Information Technology Agency?

12 A Yes.

13 MAJOR FEIN: If the defense intends to
14 offer Ms. Smith as an expert in information assurance.
15 The United States is not going to contest.

16 THE COURT: In that case just truncate the
17 foundation a little bit since the government didn't
18 (INAUDIBLE).

19 MR. COOMBS: Mine is truncated already.

20 BY MR. COOMBS:

21 Q And I know that was a mouthful, but your

1 position is chief of your division within the
2 Enterprise Manager Directorate for the U.S. Army
3 Information Technology Agency?

4 A That's correct.

5 Q And in that position you're responsible for
6 maintaining a thorough and complete knowledge of DoD,
7 U.S. Army, and federal information assurance
8 regulations and requirements?

9 A That's correct.

10 Q How long have you been in that position?

11 A I've been in that position since April of
12 2012.

13 Q And prior to that position you served as
14 the deputy director for the same agency?

15 A Deputy director for the Enterprise
16 Information Mission and Assurance Directorate which is
17 within the information technology agency. I was the
18 deputy.

19 Q I just didn't want to say all of that.

20 A Okay. Just different directorate.

21 Q In that position you supported the mission

1 of providing essentially manage information assurance
2 services for tenants of the Pentagon and the National
3 Capital Region Office?

4 A That's correct, with the primary focusing
5 on headquarters, Department of the Army systems.

6 Q And you are also responsible for physical
7 security, network security monitoring, and security
8 training and awareness?

9 A Yes, I was.

10 Q And how long did you serve in that
11 position?

12 A In that position from September of 2008
13 until March of 2011.

14 Q And we can go down some of the years, but
15 I'm going to abbreviate this slightly.

16 Were you ever in the military?

17 A Yes, I was.

18 Q And how long were you in the military?

19 A Twenty-four years.

20 Q What was the highest rank that you held?

21 A I retired as a lieutenant colonel.

1 MR. COOMBS: Your Honor, at this time we
2 tender Ms. Smith as a information assurance expert.

3 THE COURT: So accepted.

4 BY MR. COOMBS:

5 Q Ms. Smith, let's turn to what you did in
6 this case, why you did it, and how you did it?

7 A Yes.

8 Q Can you tell the Court what you did in this
9 case?

10 A Basically what I did was to look for any
11 information assurance concerns in the CID
12 investigation, the Secretary of the Army 15-6
13 investigation, and also listening to the Article 32
14 hearing.

15 Q And why did you review the initial CID
16 investigation in this case?

17 A I reviewed the initial CID investigation to
18 see if any specific information assurance violations or
19 failures had occurred that enabled Private Manning to
20 do what he did.

21 Q What information in general did the CID

1 investigation provide to you?

2 A Basically reading the CID investigation I
3 noted that they were several instances where soldiers
4 had voiced their concern over Private Manning's erratic
5 behavior before and during the deployment, and also it
6 provided other documented conduct prior to and during
7 the deployment that should have raised red flags.

8 Q Now, why did you review the secretary of
9 Army's 15-6 investigation?

10 A Again, to see if there were any specific
11 information assurance failures or violations on the
12 part of the unit that pretty much placed Private
13 Manning in a position to do what he did.

14 Q What information in general did the 15-6
15 investigation provide to you?

16 A It pretty much showed additional documented
17 conduct and it also uncovered information assurance
18 issues that were not appropriately acted upon by Master
19 Sergeant Atkins, and it also identified conduct during
20 manning's AIT period that should have caught someone's
21 attention from the standpoint of maybe he should be

1 reclassified.

2 Q Now, why did you sit through the Article 32
3 hearing?

4 A So that I could hear firsthand of any
5 information assurance practices within the S2.

6 Q And what information in general did the
7 Article 32 investigation provide to you?

8 A The Article -- well the 15-6 -- Article 32
9 pretty much revealed that there weren't any information
10 assurance practices and that things weren't being done
11 in accordance with the regulation as far as how to
12 handled removable media. No one in the unit seemed to
13 understand what a DROG was or the fact that one should
14 have been initiated on Manning basically.

15 Q And based upon the information that you
16 reviewed, did you reach any conclusions concerning the
17 information assurance practices of the 2nd Brigade 10th
18 Mountain Division?

19 A Yes, I did.

20 Q What were your conclusions?

21 A Basically that it was an undisciplined

1 environment when it came to being in compliance with
2 information assurance practices. That's basically the
3 main thing.

4 Q And how many -- in general, how many
5 information assurance red flags did you notice from the
6 material that was made available to you?

7 A I would say as many as 15.

8 Q And what would you have expected to have
9 happened based upon the red flags that you noted?

10 A I would have expected the unit to take some
11 action to discipline those that were not following the
12 regulation to ensure that information assurance
13 practices were being enforced.

14 Q And, in general, can you tell the Court
15 why, from an information assurance standpoint, why are
16 we prohibit unauthorized media like music, movies, and
17 games on a SIPRnet computer?

18 A One of the things is they could introduce,
19 embed malicious code into our network which eventually
20 could result in the network going down.

21 Q And why do we not allow unmarked CDs in a

1 SCIF?

2 A One of the primary reasons is you don't
3 know exactly what's on the CD and if it's in the SCIF
4 it should be properly marked and labeled as to what the
5 classification of the CD is.

6 Q How are CDs supposed to be accounted for
7 within a SCIF?

8 A Well, they should be a hundred percent
9 accountability. The information assurance manager
10 should ensure that there is some procedure that is
11 established to ensure that all of the CDs within the
12 SCIF are accounted for, even simple as if an analyst
13 has a product to do he or she would report to the OIC
14 or the NCOIC to obtain a CD, and once the product is
15 completed then it's signed back into the OIC or the
16 NCOIC.

17 Q Shouldn't we just be able to trust those
18 that work within a SCIF not to take information outside
19 of the SCIF?

20 A We should, but that's always the adage of
21 trust but verify, and when we do that then we ensure,

1 not totally, but it could preclude classified
2 information from being compromised.

3 Q Now, from your position, are you familiar
4 with Army regulation 380-67?

5 A Yes.

6 Q What is that regulation?

7 A It's the Army's personnel security
8 regulation that handles security clearances.

9 Q And within that regulation does it discuss
10 when the DROG should be initiated against a soldier?

11 A Yes, it does.

12 Q Who's responsible for initiating a DROG?

13 A Anyone can report information that would
14 call into question a person's suitability to maintain
15 or keep a security clearance, but ultimately it's the
16 commander's responsibility to initiate the DROG.

17 Q If a DROG is filed against a soldier does
18 that mean that that soldier will lose their clearance?

19 A Not necessarily. The command could decide
20 to revoke, suspend it, or to not even take any action,
21 and primarily it's used so that we can keep track of

1 any type of conduct down the road to determine whether
2 or not an individual is still suitable to maintain a
3 clearance or to even have access to classified
4 information.

5 Q And based upon what you've reviewed in this
6 case do you believe a DROG should have been filed
7 against PFC Manning?

8 A Yes, I do.

9 Q And when?

10 A Personally I think it's early as his time
11 during AIT. There was several instances before
12 deployment. During deployment there was several
13 opportunities that a DROG could have been initiated.

14 Q And, again, I guess if a DROG is initiated,
15 what would that have accomplished if the command had
16 done that say in December of 2009?

17 A It could have revoked his clearance or it
18 could have suspended it until the investigation of the
19 situation had been completed.

20 MR. COOMBS: Thank you. No further
21 questions.

1 THE COURT: Cross examination?

2 MAJOR FEIN: May I have a moment Your
3 Honor?

4 THE COURT: Yes.

5 CROSS EXAMINATION BY MAJOR FEIN:

6 BY MAJOR FEIN:

7 Q I'm sorry, ma'am. One moment, please.

8 Ma'am, when you retired from the United
9 States Army you held command positions prior to your
10 retired?

11 A Yes, I did.

12 Q You had senior NCO's you relied upon?

13 A Most definitely.

14 Q You had soldiers that had minor misconduct?

15 A Yes, I did.

16 Q You had soldiers that is had serious
17 misconduct?

18 A That's correct.

19 Q You had soldiers that have minor behavioral
20 issues like temper tantrums?

21 A That's correct.

1 Q Did all of those soldiers although they had
2 the opportunity to have a DROG, were all of them DROG'd
3 for their acts?

4 A No. Based on the circumstances behind the
5 conduct.

6 Q So when you were a commander, ma'am, and
7 then as a officer, at least on active duty, you
8 assessed every situation as it presented to you at the
9 time, correct?

10 A Yes.

11 Q And when you reviewed the CID
12 investigation, the comprehensive one, the Army 15-6
13 from a three star general and the Article 32 and even
14 sitting in the courtroom many times during this trial
15 you had the benefit of hindsight when you were making
16 these assessments, correct?

17 A Yes.

18 Q And you weren't necessarily there at the
19 time at AIT when PFC Manning had minor misconduct?

20 A No, I wasn't.

21 Q And you're aware he had corrective training

1 at that time to fix his minor misconduct?

2 A Yes, I did.

3 Q And then when you showed up to Fort Drum
4 you're aware that he sought mental health and received
5 mental health assistance?

6 A Yes.

7 Q And when he deployed to Iraq the same thing
8 happened, he had minor misconduct and was counseled and
9 had corrective action taken?

10 A Yes.

11 Q And you're aware that the command decided
12 at that time his leadership decided that they would
13 handle that at the S2 office because they were trying
14 to rehab the soldier?

15 A Yes.

16 Q Ma'am, within your current expertise now as
17 a civilian you focus most on information assurance and
18 I think it was physical security for headquarters and
19 the Pentagon, correct?

20 A Yes.

21 Q So it's not necessarily although the same

1 regulation on deployed soldiers in combat?

2 A That's correct.

3 Q Although it is the same regulation,
4 correct?

5 A It's the same regulation and the same
6 processes that we use in garrison for the protection of
7 classified information. It's the same that we would
8 use in a tactical environment.

9 Q Yes, ma'am. And the reg does give the
10 commander some discretion depending on their
11 environment?

12 A That's correct.

13 Q And that same discretion is inherent in
14 380-67, the DROG regulation?

15 A Yes.

16 Q In fact, most of the regulations, at least
17 I had couple in this case that you've witnessed in the
18 investigations give commanders much latitude?

19 A There's some latitude, but I'm always from
20 the perspective that it's better to error on the side
21 of the security.

1 Q And clearly in this case you think they
2 should have because we wouldn't be here today?

3 A I do.

4 Q Would you agree that a determined soldier
5 could get around most of the information assurance
6 rules and policies?

7 A Yes, I do.

8 Q Why?

9 A You can have the best procedures in place,
10 but if they're determined to do something, I do believe
11 that he or she will find a way.

12 Q Why is it, ma'am, that we don't have
13 regulations, procedures, or policies in place that
14 could prevent any and all of these acts?

15 A I really can't answer that, but I'm hoping
16 that the working group that has been put together to
17 look at this whole situation will come up with some
18 kind of regulation that will do exactly that.

19 Q Ma'am, have you in your current capacity
20 and previously worked on SIPRnet computers?

21 A Sure.

1 Q And is there a -- to the best of your
2 knowledge, through information assurance and network
3 enterprises, is there a way, a systematic way, to
4 prevent soldiers from limiting their access
5 individually? Is there a way to do that?

6 A Only if it's role based.

7 Q What do you mean by, "role based"?

8 A Role based, based upon what their
9 responsibilities and duties are when it comes to
10 utilizing or having access to the computer.

11 Q Now, ma'am, if it's role based and they
12 have it on there screen, does that still prevent them
13 in printing?

14 A No.

15 Q Does that prevent them from sharing that
16 information with someone else even though they have
17 access to it on their computer?

18 A No.

19 Q If they have access to e-mail on SIPRnet,
20 does that prevent them from e-mailing it to another
21 individual on SIPRnet?

1 A No.

2 Q So is there even a role based security that
3 could be put in place that doesn't rely on the
4 individual?

5 A Not to my knowledge.

6 Q We heard during the merits case, you were
7 in here for that, Mr. Weaver's testified that no matter
8 how, under AR25-2, it takes (INAUDIBLE) responsibility
9 to implement ultimate security.

10 Do you agree with that, ma'am?

11 A We repeat that again?

12 Q Sure. Mr. Weaver testified, ma'am, on the
13 merits, in the guilt phase, that he takes personal
14 responsibility for an individual to protect information
15 through information assurance and that's why the
16 regulation doesn't cover every possibility.

17 Do you agree with that?

18 A I agree with that.

19 Q Why?

20 A Because ultimately it is the individual's
21 responsibility to protect the information that's on the

1 computer.

2 Q Now, ma'am, going back to on 210 Mountain
3 from your review of the CID investigation, the 2nd Army
4 15-6 and the Article 32, in your testimony during this
5 court martial you mentioned 15 red flags that you
6 noted, without even going into the individual red
7 flags.

8 Is it your assessment that if all of those
9 flags had been I guess mitigated that that could have
10 prevented PFC Manning from taking classified
11 information?

12 A As I said before, it probably would not
13 have prevented it, but at least it would have lessened
14 the possibility for him to do what he did.

15 Q But if he was that determined soldier,
16 would he still be able to do it?

17 A If it he was that determined, I'm sure he
18 would have. As I stated, it would have just decreased
19 or minimized the capability for him to do that.

20 Q Yes, ma'am. Now, speaking of the Army, you
21 just testified about CDs and other items being marked

1 in the SCIF and every SCIF should have marked CDs.

2 Do you remember actually any testimony in
3 that courtroom any individual burning CDs didn't mark
4 them?

5 A No.

6 Q So assuming that even occurred for this
7 purpose, even marking CDs would, that have prevented
8 PFC Manning from walking out the door with the CD?

9 A No.

10 Q And having, I think you testified, a
11 hundred percent accountability in the SCIF what would
12 that require?

13 A It would require that every CD that's
14 within the SCIF there's an inventory that's done, and
15 each time that a soldier is in need of a CD you report
16 to the OIC or NCOIC, whoever's managing the process,
17 and receive a CD, and once it's completed then return
18 the CD to walk it back in.

19 Q And what prevents any determined soldier in
20 that interim from taking that CD and doing something
21 else with it?

1 A Nothing.

2 Q What if they're on the night shift with
3 just two soldiers, what would prevent them from running
4 out of the room and coming back ten minutes later with
5 the same CD in their hand?

6 A Nothing. If you don't have any controls in
7 place, nothing.

8 Q Well, what if you did have controls in
9 place, could the determined soldier be able to do that?

10 A A determine soldier can still do whatever
11 he or she intends to.

12 Q In reference to your testimony about DROGs,
13 understanding DROGs aren't necessarily directly within
14 the information assurance, but you have personal
15 experience, correct?

16 A Yes.

17 Q And in your personal experience you
18 testified a moment ago that it seemed like the purpose
19 is to determine the suitability to keep a security
20 clearance, correct?

21 A Keep track of any concerns or any

1 information that calls into question the individual's
2 suitability.

3 Q And from your experience, ma'am, a
4 commander, an office director would make a decision on
5 whether to suspend, take no action, or revoke, and that
6 would go into a system?

7 A Correct.

8 Q Is the commander or the office director the
9 ultimate deciding official whether a security clearance
10 would be revoked?

11 A No.

12 Q Who is?

13 A The CCF.

14 Q And without even trying to spell the
15 acronym, who is CCF? Who are they? Are they the
16 adjudication officials?

17 A Essentially clearance faculty. I had just
18 to think for a minute, but those are the ones that
19 actually do the adjudication.

20 Q Once you put a DROG in the system, it's up
21 to them ultimately on what occurs to the person's

1 security clearance?

2 A Well, that's based upon any type of
3 periodic update in the situation that is provided to
4 CCF.

5 Q But just because a commander doesn't want
6 or decides to change their mind, it's not up to the
7 commander at that point?

8 A No, it isn't.

9 Q So CCF could pull a person's clearance
10 without -- regardless what the commander thinks?

11 A Yes.

12 MAJOR FEIN: One moment, please, ma'am.

13 Your Honor, no further questions.

14 THE COURT: Redirect?

15 MR. COOMBS: Yes, Your Honor.

16 REDIRECT EXAMINATION BY MR. COOMBS:

17 BY MR. COOMBS:

18 Q Ms. Smith, a command submits a DROG and
19 recommendation that either no action be taken or a
20 soldier's clearance is to suspended, in your experience
21 does CCF generally follow the recommendation of the

1 command?

2 A Yes, based on what the actual incident was.

3 MR. COOMBS: No further questions.

4 THE COURT: Ms. Smith, I just have a couple
5 of questions for you.

6 What, if any, guidance is out there on
7 mental health treatment and DROGs?

8 THE WITNESS: The basic information on
9 mental health, when it comes to a DROG is provided in
10 AR3-67.

11 THE COURT: Do you know what it is? Is
12 this beyond your expertise?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: All right. Withdraw the
15 question.

16 Any further questions?

17 MR. COOMBS: No, Your Honor.

18 MAJOR FEIN: No, ma'am.

19 THE COURT: Ms. Smith, you're temporarily
20 excused. Please don't discuss your testimony or
21 knowledge of the case with anyone other than counsel of

1 the accused while the trial is going on.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Do we have any further business
4 to take up today.

5 MR. COOMBS: No, Your Honor.

6 MAJOR FEIN: No.

7 THE COURT: What time would you like to
8 start tomorrow?

9 MR. COOMBS: 0930. Is fine, Your Honor.

10 MAJOR FEIN: Sounds great.

11 THE COURT: The court is in recess.

12 (Hearing adjourned at 4:30 p.m.)
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